



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB1481

Introduced 2/23/2005, by Sen. Kirk W. Dillard - John J. Cullerton

SYNOPSIS AS INTRODUCED:

55 ILCS 5/4-11001.5 new	
705 ILCS 305/4.1	from Ch. 78, par. 4.1
705 ILCS 305/5	from Ch. 78, par. 5
705 ILCS 305/8	from Ch. 78, par. 8
705 ILCS 305/10.2	from Ch. 78, par. 10.2
705 ILCS 305/10.3 new	
705 ILCS 305/15	from Ch. 78, par. 15
30 ILCS 105/5.640 new	

Amends the Counties Code. Creates the Lengthy Trial Fund. Provides that the Fund shall be used to provide full or partial wage replacement or wage supplementation to jurors who serve as petit jurors for more than 10 days. Provides that a fee of \$10, which shall be paid to the clerk of the court for deposit into the Fund, shall be charged to each attorney who files a civil case or a pleading in response to a complaint. Amends the Jury Act. Provides that jurors shall not be required or requested to use annual, vacation, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent actually serving on a jury. Provides that an employer may not subject an employee to any adverse employment action by reason of the employee's jury service. Provides that a court shall automatically postpone and reschedule the service of a summoned juror who is employed by an employer with 5 or fewer full-time employees, or the equivalent, if another employee of that employer is summoned to appear during the same period. Provides that an individual may be excused from jury service for a period of up to 24 months, instead of seeking postponement, under the listed circumstances. Raises the fees for failure to attend when summoned to appear as a grand or petit juror to any sum not more than \$500 (instead of \$100). Amends the State Finance Act to create the Lengthy Trial Fund. Makes other changes. Effective July 1, 2005.

LRB094 10614 LCB 40939 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning juries.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding Section
5 4-11001.5 as follows:

6 (55 ILCS 5/4-11001.5 new)

7 Sec. 4-11001.5. Lengthy Trial Fund.

8 (a) The Lengthy Trial Fund shall be established as a
9 special Fund in the State treasury that shall be used to
10 provide full or partial wage replacement or wage
11 supplementation to jurors who serve as petit jurors for more
12 than 10 days.

13 (b) The Supreme Court shall adopt rules providing for the
14 following:

15 (1) the selection and appointment of an Administrator
16 for the Fund;

17 (2) procedures for its administration that provide
18 that monies in the Fund shall be used to make wage
19 replacement or wage supplementation as provided in this
20 Section to jurors participating on juries in trials where
21 jury service extends 11 days or longer and to recover all
22 the costs of administering the Fund, including payments of
23 salaries of the Administrator and other necessary
24 personnel;

25 (3) the accounting, auditing, and investment of money
26 in the Lengthy Trial Fund in accordance with State law
27 pertaining to similar funds; and

28 (4) the inclusion of a report by the Supreme Court of
29 Illinois on the administration of the Lengthy Trial Fund in
30 its annual report on the judicial branch, setting forth the
31 money collected for and disbursed from the Fund.

32 (c) Notwithstanding any other compensation or fees payable

1 under the laws of this State, each trial court in the State
2 shall collect from each attorney who files a civil case or
3 files a pleading in response to a complaint, unless otherwise
4 exempted under the provisions of this Section, a fee of \$10 per
5 case to be paid to the clerk of the court for deposit into the
6 Lengthy Trial Fund. A lawyer will be deemed to have "filed a
7 case" at the time the first pleading or other filing on which
8 an individual lawyer's name appears is submitted to the court
9 for filing and opens a new case. All fees collected under this
10 subsection (c) shall be forwarded by the clerk of the court to
11 the Administrator of the Lengthy Trial Fund for deposit.

12 (d) The Administrator shall, on or before the fifteenth of
13 each month, transmit all monies received from any clerk of the
14 court to the State Treasurer for deposit into the Lengthy Trial
15 Fund.

16 (e) The Administrator shall use the fees deposited in the
17 Lengthy Trial Fund to pay supplemental or full wage replacement
18 to jurors whose employers pay less than full regular wages when
19 the period of jury service reaches the 11th day and thereafter.

20 (f) Not more than 3% of the monies in the Lengthy Trial
21 Fund may be used for the reasonable and necessary costs of
22 administering the Fund.

23 (g) The court may pay replacement or supplemental wages of
24 up to \$300 per day per juror beginning on the 11th day of jury
25 service. In addition, for any jurors who qualify for payment by
26 virtue of having served on a jury for more than 10 days, the
27 court may, upon finding that the service posed a significant
28 financial hardship to a juror, even in light of payments made
29 with respect to jury service after the tenth day, award
30 replacement or supplemental wages of up to \$100 per day from
31 the 4th to the 10th day of jury service.

32 (h) Any juror who is serving or has served on a jury that
33 qualifies for payment from the Lengthy Trial Fund, provided the
34 service commenced on or after the effective date of this Act,
35 may submit a request for payment from the Lengthy Trial Fund on
36 a form that the Administrator provides. Payment shall be

1 limited to the difference between the State-paid jury fee and
2 the actual amount of wages a juror earns, up to the maximum
3 level payable, minus any amount the juror actually receives
4 from the employer during the same time period.

5 The form shall disclose the juror's regular wages, the
6 amount the employer will pay during the term of jury service
7 starting on the 11th day and thereafter, the amount of
8 replacement or supplemental wages requested, and any other
9 information the Administrator deems necessary for proper
10 payment.

11 The juror also shall be required to submit verification
12 from the employer as to the wage information provided to the
13 Administrator, for example, the employee's most recent
14 earnings statement or similar document, prior to initiation of
15 payment from the Fund.

16 If an individual is self-employed or receives compensation
17 other than wages, the individual may provide a sworn affidavit
18 attesting to his or her approximate gross weekly income,
19 together with any other information that the Administrator may
20 require, in order to verify weekly income.

21 Documents submitted pursuant to this subsection (h) are not
22 public records and shall not be disclosed to the general
23 public.

24 (i) The following attorneys and causes of action are exempt
25 from payment of the Lengthy Trial Fund fee:

26 (1) government attorneys entering appearances in the
27 course of their official duties;

28 (2) pro se litigants;

29 (3) cases in small claims court; or

30 (4) claims seeking social security disability
31 determinations; individual veterans' compensation or
32 disability determinations; recoupment actions for
33 government backed educational loans or mortgages; child
34 custody and support cases; actions brought in forma
35 pauperis; and any other filings designated by rule that
36 involve minimal use of court resources and that customarily

1 are not afforded the opportunity for a trial by jury.

2 Section 10. The Jury Act is amended by changing Sections
3 4.1, 5, 8, 10.2, and 15 and by adding Section 10.3 as follows:

4 (705 ILCS 305/4.1) (from Ch. 78, par. 4.1)

5 Sec. 4.1. Jury duty; notice to employer; right to time off.

6 (a) Any person who is not legally disqualified to serve on
7 juries, and has been duly summoned for jury duty for either
8 petit or grand jury service, shall not be required or requested
9 to use annual, vacation, or sick leave for time spent
10 responding to a summons for jury duty, time spent participating
11 in the jury selection process, or time spent actually serving
12 on a jury ~~be given time off from employment to serve upon the~~
13 ~~jury~~ for which such employee is summoned, regardless of the
14 employment shift such employee is assigned to at the time of
15 service of such summons. An employee shall give his employer
16 reasonable notice of required jury service. An employer may not
17 deny an employee time off for jury duty because such employee
18 is then assigned to work a night shift of employment, that is,
19 an employer cannot require a night shift worker to work while
20 such employee is doing jury duty in the daytime.

21 Nothing in this subsection (a) shall be construed to
22 require an employer to provide annual, vacation, or sick leave
23 to employees under the provision of this Act who otherwise are
24 not entitled to such benefits under company policies.

25 (b) No employer shall discharge, threaten to discharge,
26 intimidate, or otherwise subject ~~or coerce~~ any employee to any
27 other adverse employment action by reason of the employee's
28 jury service, or the attendance or scheduled attendance in
29 connection with such service, in any court of this State.

30 (c) If an employee gives reasonable notice of required jury
31 service, any employer who violates the provisions of this
32 Section:

33 (1) may be charged with contempt of court. In such an
34 event, the State's Attorney shall file a petition for civil

1 contempt, criminal contempt, or both, against the employer
2 to be prosecuted by the State's Attorney; and

3 (2) shall be liable for damages for any loss of wages
4 or other benefits suffered by an employee by reason of the
5 violation; and

6 (3) may be enjoined from further violations of this
7 Section and ordered to reinstate any employee discharged by
8 reason of jury service.

9 As used in this Section, "reasonable notice of required
10 jury service" means that the employee summoned for jury duty
11 must deliver to the employer a copy of the summons within 10
12 days of the date of issuance of the summons to the employee.

13 (d) Any individual who is reinstated to a position of
14 employment in accordance with this Section shall be considered
15 as having been on furlough or leave of absence during his
16 period of jury service, shall be reinstated to his position of
17 employment without loss of seniority, and shall be entitled to
18 participate in insurance or other benefits offered by the
19 employer under established rules and practices relating to
20 employees on furlough or leave of absence in effect with the
21 employer at the time the individual entered upon jury service.

22 (e) In any action or proceeding under this Section, the
23 court may award a prevailing employee who brings the action by
24 retained counsel a reasonable attorney's fee.

25 (f) Any right or remedy provided in this Section is in
26 addition to any right or remedy otherwise provided by law to an
27 employee.

28 (g) No employer shall be obligated to compensate an
29 employee for time taken off for jury duty.

30 (g-5) A court shall automatically postpone and reschedule
31 the service of a summoned juror who is employed by an employer
32 with 5 or fewer full-time employees, or the equivalent, if
33 another employee of that employer is summoned to appear during
34 the same period. The postponement will not constitute the
35 excused individual's right to one automatic postponement
36 pursuant to Section 10.3 of this Act.

1 (h) The official responsible for issuing the summons may
2 advise the juror of his rights under this Act by printed insert
3 with the summons or on the summons itself.

4 (Source: P.A. 86-1395; 87-616.)

5 (705 ILCS 305/5) (from Ch. 78, par. 5)

6 Sec. 5. Subsequent selection of jurors; length of service.

7 (a) At the time of making such selection, the name of the
8 person selected shall be checked off from such list, and shall
9 not be again selected as a juror till every person named upon
10 such list qualified to serve as a juror has been selected; and
11 all subsequent selections of jurors by such board shall be made
12 from such list until all persons thereon qualified to serve
13 have been selected, or until a new list is made: Provided, if
14 any person who has been selected as a juror shall not have been
15 drawn, or have served upon a jury during the year for which he
16 was selected, he shall, if qualified, be selected for the next
17 year.

18 (b) In counties with populations greater than 100,000,
19 service of prospective petit jurors shall be for no more than 1
20 court day in actual attendance, unless a prospective petit
21 juror is selected to serve in a trial or is under consideration
22 to serve on a trial and such consideration covers a period of 2
23 or more days. Once selected, a petit juror shall serve on the
24 jury for the duration of the trial unless excused by the
25 presiding judge.

26 (Source: P.A. 86-1053.)

27 (705 ILCS 305/8) (from Ch. 78, par. 8)

28 Sec. 8. Selection from box.

29 (a) Upon a day designated by the judge of the court, which
30 shall be at least 20 days before the first day for which any of
31 the panel then to be drawn is summoned, the clerk of such court
32 shall repair to the office of the county clerk, and in the
33 presence of a judge and of such county clerk, after the box
34 containing the names has been well shaken by the county clerk,

1 and being blindfolded shall, without partiality, draw from such
2 box the names of a sufficient number of such persons, then
3 residents of the county, not less than 30 for each 2 weeks that
4 such court will probably be in session for the trial of common
5 law cases, to constitute the petit jurors for the time being
6 and where there is an additional judge in such court, a like
7 number for each additional judge requiring a jury, unless the
8 court shall otherwise order: Provided, that the clerk shall at
9 any time, when directed by an order of the court draw in the
10 manner above provided, such number of persons then residents of
11 the county, as shall be required by the order to act as petit
12 jurors in such court for such time as may be fixed in such
13 order: And provided, that should the clerk draw from the box
14 the name of a person who is known to be dead, to have been
15 selected as a grand juror, a non-resident, absent from the
16 State, ~~unable to attend in consequence of illness,~~ or that he
17 is legally disqualified to serve as a juror, the clerk shall
18 report the name of such person to the county clerk, and the
19 clerk of such court shall draw other names until the required
20 number have been selected: Provided, also that whenever there
21 is pending for trial in any of the courts, any criminal cause
22 wherein the defendant is charged with a felony, and the judge
23 holding such court is convinced from the circumstances of the
24 case that a jury cannot be obtained from the regular panel to
25 try the cause, the judge may in his discretion, prior to the
26 day fixed for the trial of the cause, direct the clerk to draw
27 (in the same manner as the regular panel is drawn,) not
28 exceeding 100 names as a special panel from which a jury may be
29 selected to try the cause.

30 (b) Notwithstanding the provisions of subsection (a),
31 names of jurors may be randomly drawn by computer.

32 (Source: P.A. 86-1053.)

33 (705 ILCS 305/10.2) (from Ch. 78, par. 10.2)

34 Sec. 10.2. Excusing prospective jurors; hardship.

35 (a) An individual may apply to be excused from jury service

1 for a period of up to 24 months, instead of seeking a
2 postponement, when either:

3 (1) the prospective juror has a mental or physical
4 condition that causes him or her to be incapable of
5 performing jury service. The juror, or the juror's personal
6 representative, must provide the court with documentation
7 from a physician licensed to practice medicine in all its
8 branches verifying that a mental or physical condition
9 renders the person unfit for jury service for a period not
10 less than the 24 month period for which the excuse is
11 sought; or

12 (2) jury service would otherwise cause undue or extreme
13 physical or financial hardship to the prospective juror or
14 a person under his or her care or supervision. A judge of
15 the court for which the individual was called to jury
16 service shall make determinations regarding undue or
17 extreme physical or financial hardship. The authority to
18 make these determinations is delegable only to court
19 officials or personnel who are authorized by the laws of
20 this State to function as members of the judiciary.

21 (b) A person asking to be excused from jury service under
22 this Section must take all actions necessary to have obtained a
23 ruling on that request by no later than the date on which the
24 individual is scheduled to appear for jury duty.

25 (c) For purposes of this Section, "undue or extreme
26 physical or financial hardship" is limited to circumstances in
27 which an individual would:

28 (1) be required to abandon a person under his or her
29 personal care or supervision due to the impossibility of
30 obtaining reasonable alternative care during the period of
31 participation in the jury pool or on the jury; or

32 (2) incur costs that would have a substantial adverse
33 impact on the payment of the individual's necessary daily
34 living expenses or on those for whom he or she provides the
35 principle means of support; or

36 (3) suffer physical hardship that would result in

1 illness or disease.

2 "Undue or extreme physical or financial hardship" does not
3 exist solely based on the fact that a prospective juror will be
4 required to be absent from his or her place of employment. A
5 person asking a judge to grant an excuse based on "undue or
6 extreme physical or financial hardship" shall be required to
7 provide the judge with documentation, such as, but not limited
8 to, federal and State income tax returns, medical statements
9 from licensed physicians, proof of dependency or guardianship,
10 and similar documents, which the judge finds to clearly support
11 the request to be excused. Failure to provide satisfactory
12 documentation shall result in a denial of the request to be
13 excused. These documents are not public records and shall not
14 be disclosed to the general public.

15 (d) After 24 months, a person excused from jury service
16 shall become eligible once again for qualification as a juror
17 unless the person was excused from service permanently. A
18 person is excused from jury service permanently only when the
19 deciding judge determines that the underlying grounds for being
20 excused are of a permanent nature.

21 ~~The county boards of the respective counties, the jury~~
22 ~~commissioners for those counties which have been appointed~~
23 ~~under the Jury Commission Act, or a jury administrator shall~~
24 ~~submit questionnaires to prospective jurors to inquire as to~~
25 ~~their qualifications for jury service and as to the hardship~~
26 ~~that jury service would pose to the prospective jurors. Upon~~
27 ~~prior approval by the chief judge of the judicial circuits in~~
28 ~~which a county board, jury administrator, or jury commissioners~~
29 ~~are situated, the county board, jury administrator, or jury~~
30 ~~commissioners shall excuse a prospective juror from jury~~
31 ~~service if the prospective juror shows that such service would~~
32 ~~impose an undue hardship on account of the nature of the~~
33 ~~prospective juror's occupation, business affairs, physical~~
34 ~~health, family situation, active duty in the Illinois National~~
35 ~~Guard or Illinois Naval Militia, or other personal affairs, and~~
36 ~~cause his or her name to be returned to the jury list or~~

1 ~~general jury list.~~

2 ~~(b) When an undue hardship caused by a family situation is~~
3 ~~due to the prospective juror being the primary care giver of a~~
4 ~~person with a mental or physical disability, a person with a~~
5 ~~medically diagnosed behavior problem, or a child under age 12,~~
6 ~~then the county board, jury commissioners or jury administrator~~
7 ~~shall excuse such a prospective juror, if it finds that no~~
8 ~~reasonable alternative care is feasible which would not impose~~
9 ~~an undue hardship on the prospective juror or the person for~~
10 ~~whom the prospective juror is providing care, or both.~~

11 (Source: P.A. 90-482, eff. 1-1-98; 91-264, eff. 7-23-99.)

12 (705 ILCS 305/10.3 new)

13 Sec. 10.3. Postponement of jury service.

14 (a) Notwithstanding Section 10.2 or any other provision of
15 this Act, individuals scheduled to appear for jury service have
16 the right to postpone the date of their initial appearance for
17 jury service 1 time only. When requested, postponements shall
18 be granted, provided that:

19 (1) the juror has not previously been granted a
20 postponement;

21 (2) the prospective juror appears in person or contacts
22 the clerk of the court by telephone, electronic mail, or in
23 writing to request a postponement; and

24 (3) prior to the grant of a postponement with the
25 concurrence of the clerk of the court, the prospective
26 juror fixes a date certain on which he or she will appear
27 for jury service that is not more than 6 months after the
28 date on which the prospective juror originally was called
29 to serve and on which date the court will be in session.

30 (b) A subsequent request to postpone jury service may be
31 approved by a judicial officer only in the event of an extreme
32 emergency, such as a death in the family, sudden illness, or a
33 natural disaster or a national emergency in which the
34 prospective juror is personally involved, that could not have
35 been anticipated at the time the initial postponement was

1 granted. Prior to the grant of a second postponement, the
2 prospective juror must fix a date certain on which the
3 individual will appear for jury service within 6 months of the
4 postponement on a date when the court will be in session.

5 (705 ILCS 305/15) (from Ch. 78, par. 15)

6 Sec. 15. Failure to attend; contempt. Every person who
7 shall fail to attend when lawfully summoned to appear as a
8 grand or petit juror, without having properly obtained
9 postponement or excuse pursuant to Sections 10.2 and 10.3 a
10 reasonable excuse, shall be considered in civil ~~as guilty of a~~
11 contempt, and shall be fined by the courts, respectively, in
12 any sum not ~~less than \$5 nor~~ more than \$500 ~~\$100~~, for the use of
13 the proper county, unless good cause be shown for such default;
14 and it shall be the duty of the court to enter an order of
15 attachment, returnable forthwith, against all such
16 delinquents, and upon the return thereof the court shall
17 proceed to assess the fine unless the person or persons so
18 attached shall show good cause for such delinquency: Provided,
19 that the oath or affirmation of any such delinquent shall, at
20 all times, be received as competent evidence. In addition to,
21 or in lieu of, the fine, the court may order that the
22 prospective juror complete a period of community service for a
23 period no less than if the prospective juror would have
24 completed jury service, and provide proof of completion of this
25 community service to the court.

26 (Source: P.A. 83-346.)

27 Section 15. The State Finance Act is amended by adding
28 Section 5.640 as follows:

29 (30 ILCS 105/5.640 new)

30 Sec. 5.640. The Lengthy Trial Fund.

31 Section 97. Severability. The provisions of this
32 amendatory Act of the 94th General Assembly are severable under

1 Section 1.31 of the Statute on Statutes.

2 Section 99. Effective date. This Act takes effect July 1,
3 2005.